



October 5, 1999

Lieutenant Brad Lancaster
Amarillo Police Department
200 E. 3rd
Amarillo, Texas 79101-1514

OR99-2819

Dear Lieutenant Lancaster:

The Amarillo Police Department (the "Department") asks whether certain information is subject to public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 128667.

The Department received a request for any and all reports pertaining to or naming a certain individual as a suspect, witness or complainant. You contend the requested records are excepted from required public disclosure by section 552.101 of the Government Code. After review of the information you have submitted, we conclude that the requested information is confidential pursuant to section 552.101.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by the common-law right of privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1(1992).

We note at the outset that to the extent the requestor is asking for any unspecified records in which the named individual is identified as a "suspect," the requestor, in essence, is asking that the Department compile that individual's criminal history. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this

privacy interest. *See* Open Records Decision Nos. 616 (1993), 565 (1990). Therefore, to the extent that the named individual is identified as a suspect, the Department must withhold all compilations of the referenced individual's criminal history pursuant to section 552.101. We have marked the information you must withhold.

The remaining information is not private; however, the information includes drivers license numbers which are excepted under section 552.130. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

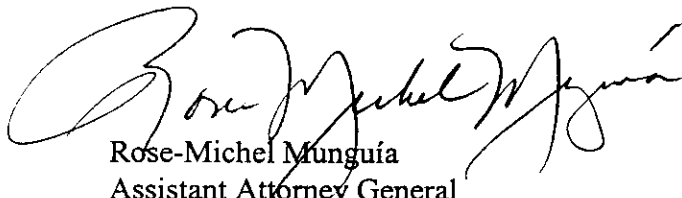
(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

The remaining information must be released but, prior to doing so, the driver's license numbers must be redacted.

We are resolving this matter with an informal letter ruling rather than with a published Open Records Decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Rose-Michel Munguía
Assistant Attorney General
Open Records Division

RMM\nc

Ref: ID# 128667

Encl: Submitted documents

cc: Mr. Jimmy D. Whatley
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Amarillo, Texas 79105